

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

BETHANN SHANNON,
Plaintiff,

v.

FAIRHAVEN HEALTH, LLC, and JOHN
DOES 1 - 10
Defendants.

Cause No.

COMPLAINT FOR
COPYRIGHT INFRINGEMENT

JURY TRIAL DEMANDED

Plaintiff Bethann Shannon (“Ms. Shannon”) complains of Defendants as follows:

PARTIES

1. Ms. Shannon is an individual residing in Williamstown, Massachusetts.

2. Upon information and belief, Defendant Fairhaven Health, LLC is a Washington Limited Liability Company with a principle place of business in Bellingham, Washington.

3. Upon information and belief, John Doe Defendants 1 – 10 are manufacturers and suppliers of sculptures that infringe Ms. Shannon's “My Pet Sperm” sculpture (as further described in paragraph 6 below) that is the subject matter of this action, and upon information and belief have supplied the infringing sculptures to Defendant Fairhaven Health LLC in the state of Washington and in this district.

JURISDICTION AND VENUE

4. This is an action arising out of the copyright laws of the United States, 17 U.S.C. §501 et seq.

5. This Court has subject matter jurisdiction pursuant to 17 U.S.C. § 501(a) and 28 U.S.C. § 1331.

6. Venue is proper in this judicial district under 28 U.S.C. §§ 1391 and 1400 because the Defendants conduct business within this judicial district, and they or their agents or affiliates can be found in this judicial district. Acts giving rise to this complaint occurred within this judicial district.

FACTS

7. In the late-1990's Ms. Shannon created a "My Pet Sperm" sculpture, a novelty item to promote sexual awareness and safe sex practices. The "My Pet Sperm" sculpture is a stylized flexible doll featuring a round "head" with a face on one side, and a tail.

8. Ms. Shannon is the owner of federal copyright registration number VAu 405-251, effective March 3, 1997 for the "My Pet Sperm" doll as a sculptural work. A copy of Plaintiff's copyright registration for "My Pet Sperm" sculpture is attached hereto as Exhibit A.

9. Ms. Shannon distributed the "My Pet Sperm" sculpture nationally, including through the national retail chain "Urban Outfitters" and continuously since 1999 on her website MY PET SPERM.

10. Defendants or their agents, upon information and belief, acquired or otherwise had access to Plaintiff's "My Pet Sperm" sculpture.

11. Defendants and their agents, caused to be created, manufactured, and distributed stylized flexible sculptures featuring a "head" with the words "Take the stress out of conception" and a logo bearing the name "FAIRHAVEN HEALTH" on the side.

1 12. With the exception of the exterior markings, the sculptures are visually
2 identical in dimension, shape, color, and overall impression. A copy of a photograph of the
3 two sculptures side-by-side is attached as Exhibit B.

4 **CAUSE OF ACTION**

5 **COPYRIGHT INFRINGEMENT**

6 13. Ms. Shannon incorporates the allegations made in paragraphs 1-11 as if fully
7 set forth herein.

8 14. Defendants have willfully committed copyright infringement under 17 U.S.C.
9 § 501 et. seq., directly, by inducement, or by way of contributory liability, by knowingly
10 aiding, causing, or committing, the unauthorized practice or execution of one or more
11 exclusive rights owned by Ms. Shannon set forth in 17 U.S.C. § 106, said exclusive rights
12 having been perfected by U.S. Copyright Registration No. VA 1,325,348 for the Ms. Shannon
13 sculpture.

14 **PRAYER FOR RELIEF**

15 WHEREFORE, Plaintiff, Ms. Shannon, prays for the following relief:

16 A. An order entering judgment in favor of Ms. Shannon and awarding damages to
17 Ms. Shannon in the amount of Ms. Shannon's actual damages and any profits of the
18 Defendants attributable to the infringing acts alleged herein, consistent with 17 U.S.C. §
19 504(a)(1), or, at her election, an award of statutory damages consistent with 17 U.S.C. §
20 504(a)(2).

21 B. An order entering judgment in favor of Ms. Shannon and enjoining any further
22 acts of infringement of the copyright in the "My Pet Sperm" sculpture and further ordering the
23 destruction of all articles used (such as molds or data models) in the acts of infringement,
24 consistent with remedies available under 17 U.S.C. § 503 and 15 U.S.C. § 1118.

25 C. An award of full costs and reasonable attorney's fees against Defendants and in
26 favor of Ms. Shannon pursuant to 17 U.S.C. § 505.
27

1 D. Such other further relief the Court may deem just and proper.
2

3 **JURY DEMAND**

4 Ms. Shannon demands a trial by jury on all issues presented in this Complaint.
5

6 Dated this 27th day of May, 2009.
7

8 Respectfully submitted,

9 /s/ Philip P. Mann

10 Philip P. Mann, WSBA No: 28860

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